

1                                   **LOBBYIST GIFT LIMITS AND DISCLOSURE**

2   2006 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Jeff Alexander**

5                                   Senate Sponsor: Thomas V. Hatch

---

---

7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Lobbyist Disclosure and Regulation Act and a reporting section  
10 of the Election Code.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ provides and modifies definitions;
- 14           ▶ requires political action committees to file a yearly organizational statement;
- 15           ▶ removes reporting exemptions from certain travel, lodging, and meal expenses;
- 16           ▶ provides that public officials, elected officials of local governments, and certain  
17 state employees are subject to lobbyist disclosure regulations;
- 18           ▶ requires that financial expenditure reports be filed quarterly;
- 19           ▶ requires that certain details be reported on expenditures over \$5;
- 20           ▶ provides that single expenses in the amount of \$5 or less are not required to be  
21 reported unless they are combined with other expenses;
- 22           ▶ establishes conflict of interest standards for lobbyists; and
- 23           ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **20A-11-601**, as enacted by Chapter 1, Laws of Utah 1995

31 **36-11-102**, as last amended by Chapter 13, Laws of Utah 1998

32 **36-11-201**, as last amended by Chapter 27, Laws of Utah 2003

33 ENACTS:

34 **36-11-306**, Utah Code Annotated 1953

35 

---

---

  
36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **20A-11-601** is amended to read:

38 **20A-11-601. Political action committees -- Registration.**

39 (1) (a) Each political action committee shall file a statement of organization with the  
40 lieutenant governor's office on January 10 of each year, unless the political action committee  
41 has filed a notice of dissolution under Subsection (3).

42 (b) If a political action committee is organized after the January 10 filing date, the  
43 political action committee shall file an initial statement of organization no later than seven  
44 calendar days after:

- 45 [~~(a)~~] (i) receiving contributions totaling at least \$750 [~~in any calendar year~~]; or
- 46 [~~(b)~~] (ii) distributing expenditures for political purposes totaling at least \$750 [~~in any~~  
47 ~~calendar year~~].

48 (c) If January 10 falls on a weekend or holiday, the statement of organization shall be  
49 due on the following business day.

50 (2) The statement of organization shall include:

- 51 (a) the name and address of the political action committee;
- 52 (b) the name, address, occupation, and title of each officer;
- 53 (c) the name and address of the organization, individual corporation, association, unit  
54 of government, or union that the political action committee represents, if any;
- 55 (d) the name and address of all affiliated or connected organizations and their  
56 relationships to the political action committee;
- 57 (e) the name, address, business address, occupation, and phone number of the  
58 committee's treasurer or chief financial officer; and

59 (f) the name, address, and occupation of each member of the governing board, if any.

60 (3) (a) Any registered political action committee that intends to permanently cease  
61 operations shall file a notice of dissolution with the lieutenant governor's office.

62 (b) Any notice of dissolution filed by a political action committee does not exempt that  
63 political action committee from complying with the financial reporting requirements of this  
64 chapter.

65 Section 2. Section **36-11-102** is amended to read:

66 **36-11-102. Definitions.**

67 As used in this chapter:

68 (1) "Aggregate daily expenditures" means the total expenditures made within a 24-hour  
69 period.

70 (2) "Executive action" means:

71 (a) nominations and appointments by the governor;

72 (b) the proposal, drafting, amendment, enactment, or defeat by a state agency of any  
73 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and

74 (c) agency ratemaking proceedings.

75 (3) (a) "Expenditure" means any of the items listed in this subsection when given to or  
76 for the benefit of a public official or his immediate family:

77 (i) a purchase, payment, distribution, loan, gift, advance, deposit, subscription,  
78 forbearance, services, or goods, unless consideration of equal or greater value is received; and

79 (ii) a contract, promise, or agreement, whether or not legally enforceable, to provide  
80 any of the items listed in Subsection (3)(a)(i).

81 (b) "Expenditure" does not mean:

82 (i) a commercially reasonable loan made in the ordinary course of business;

83 (ii) a campaign contribution reported in accordance with Title 20A, Chapter 11,

84 ~~[Corrupt Practices in Elections]~~ Campaign and Financial Reporting Requirements;

85 (iii) printed informational material;

86 (iv) a devise or inheritance;

87 (v) any item listed in Subsection (3)(a) if given by a relative;

88 (vi) a modest item of food or refreshment such as a beverage or pastry offered other  
89 than as part of a meal, the value of which does not exceed \$5;

90 (vii) a greeting card or other item of little intrinsic value that is intended solely for  
91 presentation; or

92 (viii) plaques, commendations, or awards~~[-or]~~.

93 ~~[(ix) reimbursement of reasonable expenses for or providing travel, lodging, or meals~~  
94 ~~to a public official when:]~~

95 ~~[(A) those expenses are directly related to the public official's attendance and~~  
96 ~~participation in a regularly scheduled meeting of an organization, association, or group; and]~~

97 ~~[(B) that organization, association, or group pays or provides those expenses.]~~

98 (4) (a) "Government officer" means:

99 (i) an individual elected to a position in state or local government, when acting within  
100 his official capacity; or

101 (ii) an individual appointed to or employed in a full-time position by state or local  
102 government, when acting within the scope of his employment.

103 (b) "Government officer" does not mean a member of the legislative branch of state  
104 government.

105 (5) "Immediate family" means a spouse, a child residing in the household, or an  
106 individual claimed as a dependent for tax purposes.

107 (6) "Interested person" means an individual defined in Subsections (9)(b)(ii) and  
108 ~~[(viii)]~~ (vii).

109 (7) "Legislative action" means:

110 (a) bills, resolutions, amendments, nominations, and other matters pending or proposed  
111 in either house of the Legislature or its committees or requested by a legislator; and

112 (b) the action of the governor in approving or vetoing legislation.

113 (8) "Lobbying" means communicating with a public official for the purpose of  
114 influencing the passage, defeat, amendment, or postponement of legislative or executive action.

115 (9) (a) "Lobbyist" means:

116 (i) an individual who is employed by a principal; or

117 (ii) an individual who contracts for economic consideration, other than reimbursement  
118 for reasonable travel expenses, with a principal to lobby a public official.

119 (b) "Lobbyist" does not include:

120 ~~[(i) a public official while acting in his official capacity on matters pertaining to his~~

121 ~~office or a state employee while acting within the scope of his employment;]~~

122 (i) a member or employee of the legislative branch of government;

123 (ii) any person appearing at, or providing written comments to, a hearing conducted in  
124 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act or Title 63,  
125 Chapter 46b, Administrative Procedures Act;

126 (iii) any person participating on or appearing before an advisory or study task force,  
127 commission, board, or committee, constituted by the Legislature or any agency or department  
128 of state government, except legislative standing, appropriation, or interim committees;

129 (iv) a representative of a political party;

130 (v) an individual representing a bona fide church solely for the purpose of protecting  
131 the right to practice the religious doctrines of the church unless the individual or church makes  
132 an expenditure that confers a benefit on a public official;

133 (vi) a newspaper, television station or network, radio station or network, periodical of  
134 general circulation, or book publisher for the purpose of publishing news items, editorials,  
135 other comments, or paid advertisements that directly or indirectly urge legislative or executive  
136 action; or

137 ~~[(vii) an elected official of a local government while acting within the scope of his  
138 official capacity on matters pertaining to his office or an employee of a local government while  
139 acting within the scope of his employment; or]~~

140 ~~[(viii)]~~ (vii) an individual who appears on his own behalf before a committee of the  
141 Legislature or an executive branch agency solely for the purpose of testifying in support of or  
142 in opposition to legislative or executive action.

143 (10) "Person" includes individuals, bodies politic and corporate, partnerships,  
144 associations, and companies.

145 (11) "Principal" means a person who employs ~~a lobbyist~~ an individual to perform  
146 lobbying either as an employee or as an independent contractor.

147 (12) "Public official" means:

148 (a) a member of the Legislature;

149 (b) an individual elected to a position in the executive branch; or

150 (c) an individual appointed to or employed in the executive or legislative branch if that  
151 individual:

- 152 (i) occupies a policymaking position or makes purchasing or contracting decisions;
- 153 (ii) drafts legislation or makes rules;
- 154 (iii) determines rates or fees; or
- 155 (iv) makes adjudicative decisions.

156 (13) "Quarterly reporting period" means the three-month period covered by each  
 157 financial report required under Subsection 36-11-201(2)(a)(i).

158 ~~[(13)]~~ (14) "Related person" means any person, or agent or employee of a person, who  
 159 knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

160 ~~[(14)]~~ (15) "Relative" means a spouse, child, parent, grandparent, grandchild, brother,  
 161 sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or  
 162 spouse of any of these individuals.

163 Section 3. Section **36-11-201** is amended to read:

164 **36-11-201. Lobbyist, principal, and government officer financial reporting**  
 165 **requirements -- Prohibition for related person to make expenditures.**

166 (1) As used in this section, "public official type" means a notation to identify whether  
 167 the public official is:

- 168 (a) a member of the legislature;
- 169 (b) an individual elected to a position in the executive branch;
- 170 (c) an individual appointed to or employed in a position in the legislative branch who  
 171 meets the definition of public official in Section 36-11-102; or
- 172 (d) an individual appointed to or employed in a position in the executive branch who  
 173 meets the definition of public official in Section 36-11-102.

174 (2) (a) (i) Each lobbyist, principal, and government officer that makes an expenditure  
 175 during any of the following quarterly reporting periods shall file ~~[an annual]~~ a quarterly  
 176 financial report with the lieutenant governor on [January 10 of each year or] the following  
 177 dates:

- 178 (A) April 10, for the period of November 1 through March 31;
- 179 (B) July 10, for the period of April 1 through June 30;
- 180 (C) October 10, for the period of July 1 through September 30; and
- 181 (D) January 10, for the period of October 1 through December 31 of the previous year.
- 182 (ii) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday,

183 the report shall be considered to be due on the next succeeding business day [~~if January 10 falls~~  
184 ~~on a Saturday, Sunday, or legal holiday~~].

185 (iii) The report shall be considered timely filed if postmarked on its due date.

186 ~~[(iii)]~~ (iv) The report shall disclose expenditures made to benefit public officials or  
187 members of their immediate families as provided in this section.

188 ~~[(iii) If]~~ (v) (A) Notwithstanding Subsection (2)(a)(i), a lobbyist shall file a quarterly  
189 financial report whether or not the lobbyist has made [~~no expenditures since the last~~  
190 ~~expenditure reported on the last report filed;~~] an expenditure during the quarterly reporting  
191 period.

192 (B) If the lobbyist has made no expenditures during the quarterly reporting period, the  
193 lobbyist shall file a quarterly financial report listing the amount of expenditures as "none."

194 (C) The report shall be filed in accordance with the dates specified under Subsections  
195 (2)(a)(i) and (ii).

196 (b) The [~~January 10~~] quarterly financial report shall contain:

197 (i) (A) the total amount of expenditures made to benefit public officials during the last  
198 [~~calendar year~~] quarterly reporting period; and

199 (B) the total amount of expenditures made to benefit public officials by public official  
200 type during the last [~~calendar year~~] quarterly reporting period;

201 (ii) (A) the total travel expenditures that the lobbyist, principal, or government officer  
202 made to benefit public officials and their immediate families during the [~~last calendar year~~]  
203 quarterly reporting period; and

204 (B) the total travel expenditures that the lobbyist, principal, or government officer  
205 made to benefit public officials and their immediate families, by public official type, during the  
206 last [~~calendar year~~] quarterly reporting period; and

207 (C) a travel expenditure statement that:

208 (I) describes the destination of each trip and its purpose;

209 (II) identifies the total amount of expenditures made to benefit each public official and  
210 members of the public official's immediate family for each trip;

211 (III) names all individuals that took each trip;

212 (IV) identifies the public official type to which each public official belongs;

213 (V) provides the name and address of the organization that sponsored each trip; and

214 (VI) identifies specific expenditures for food, lodging, gifts, and sidetrips;  
215 (iii) except as specified under Subsection (2)(b)(iv) regarding expenditures for food or  
216 beverage, for each aggregate daily [expenditures] expenditure made during the quarterly  
217 reporting period to benefit a public [officials or members of their] official or a member of the  
218 public official's immediate [families] family in an amount exceeding \$5 per person, that [are] is  
219 not otherwise reportable under Subsection (2)(b)(ii):

220 [~~(A)~~ when the amount does not exceed \$50 per person:]

221 [~~(I)~~ the date of the expenditure;]

222 [~~(II)~~ the purpose of the expenditure;]

223 [~~(III)~~ the public official type to which each public official belongs; and]

224 [~~(IV)~~ the total monetary worth of the benefit conferred on the public officials or  
225 members of their immediate families;]

226 [~~(B)~~ when the amount exceeds \$50 per person:]

227 [~~(I)~~ (A) the date, location, and purpose of the event, activity, or expenditure;

228 [~~(II)~~ (B) the name of the public official or member of the public official's immediate  
229 family who attended the event or activity or received the benefit of the expenditure;

230 [~~(III)~~ (C) the public official type to which each public official belongs; and

231 [~~(IV)~~ (D) the total monetary worth of the benefit conferred on the public official or  
232 member of the public official's immediate family by the lobbyist, principal, or government  
233 officer filing the financial report;

234 (iv) (A) for each aggregate daily expenditure for food or beverage made during the  
235 quarterly reporting period to benefit a public official or a member of a public official's  
236 immediate family in an amount exceeding \$5 per person, but not exceeding \$50 per person:

237 (I) the date of the expenditure;

238 (II) the purpose of the expenditure;

239 (III) the public official type to which each public official belongs; and

240 (IV) the total monetary worth of the benefit conferred on the public official or member  
241 of the public official's immediate family; and

242 (B) each aggregate daily expenditure for food or beverage that exceeds \$50 per person  
243 shall be reported under Subsection (2)(b)(iii);

244 [~~(iv)~~ (v) a list of each public official who was employed by the lobbyist, principal, or

245 government officer or who performed work as an independent contractor for the lobbyist,  
246 principal, or government officer during the last year that details the nature of the employment  
247 or contract;

248 ~~[(v)]~~ (vi) each bill or resolution by number and short title on behalf of which the  
249 lobbyist, principal, or government officer made an expenditure to a public official for which a  
250 report is required by this section, if any;

251 ~~[(vi)]~~ (vii) a description of each executive action on behalf of which the lobbyist,  
252 principal, or government officer made an expenditure to a public official for which a report is  
253 required by this section, if any; and

254 ~~[(vii)]~~ (viii) the general purposes, interests, and nature of the organization or  
255 organizations that the lobbyist, principal, or government officer filing the report represents.

256 (c) In reporting expenditures under this section for events to which all legislators are  
257 invited, each lobbyist, principal, and government officer:

258 (i) may not divide the cost of the event by the number of legislators who actually attend  
259 the event and report that cost as an expenditure made to those legislators;

260 (ii) shall divide the total cost by the total number of Utah legislators and others invited  
261 to the event and report that quotient as the amount expended for each legislator who actually  
262 attended the event; and

263 (iii) may not report any expenditure as made to a legislator who did not attend the  
264 event.

265 (3) (a) As used in this Subsection (3):

266 (i) "Lobbyist group" means two or more lobbyists, principals, government officers,  
267 ~~and~~ or any combination of lobbyists, principals, and government officers who each contribute  
268 a portion of an expenditure made to benefit a public official or member of his immediate  
269 family.

270 (ii) "Multiclient lobbyist" means a single lobbyist, principal, or government officer  
271 who represents two or more clients and divides the aggregate daily expenditure made to benefit  
272 a public official or member of his immediate family between two or more of those clients.

273 (b) When a lobbyist group combines to make aggregate daily expenditures to benefit  
274 public officials or members of their immediate families, and the total aggregate daily  
275 expenditure of the lobbyist group exceeds ~~[\$50]~~ \$5 per person, each member of the lobbyist

276 group shall disclose on the reports required by this section:

277 (i) the date, location, and purpose of the event, activity, or expenditure;

278 (ii) the name of the public official or member of the public official's immediate family  
279 who attended the event or activity or received the benefit of the expenditure;

280 (iii) the public official type to which each public official belongs;

281 (iv) the total monetary worth of the benefit conferred on the public official or member  
282 of the public official's immediate family by the lobbyist group [~~and~~];

283 (v) the total monetary worth of the benefit conferred upon the public official or  
284 member of the public official's immediate family by the lobbyist, principal, or government  
285 officer filing the financial report;

286 [~~(vi)~~] (vi) each bill or resolution by number and short title on behalf of which the  
287 lobbyist, principal, or government officer made an expenditure to a public official for which a  
288 report is required by this section, if any;

289 [~~(vii)~~] (vii) a description of each executive action on behalf of which the lobbyist,  
290 principal, or government officer made an expenditure to a public official for which a report is  
291 required by this section, if any; and

292 [~~(viii)~~] (viii) the general purposes, interests, and nature of the organization or  
293 organizations that the lobbyist, principal, or government officer filing the report represents.

294 (c) When a multiclient lobbyist makes aggregate daily expenditures to benefit public  
295 officials or members of their immediate families, and the sum of the total aggregate daily  
296 expenditure for all of the lobbyist's clients exceeds [~~\$50~~] \$5 for a public official or family  
297 member, the multiclient lobbyist shall, for each client, disclose on the reports required by this  
298 section:

299 (i) the date, location, and purpose of the event, activity, or expenditure;

300 (ii) the name of the public official or member of the public official's immediate family  
301 who attended the event or activity or received the benefit of the expenditure;

302 (iii) the public official type to which each public official belongs;

303 (iv) the total monetary worth of the benefit conferred on the public official or member  
304 of the public official's immediate family by all clients [~~and~~];

305 (v) the total monetary worth of the benefit conferred on the public official or member  
306 of the public official's immediate family by the client upon whose behalf the report is filed;

307           ~~[(v)]~~ (vi) each bill or resolution by number and short title on behalf of which the  
308 lobbyist, principal, or government officer made an expenditure to a public official for which a  
309 report is required by this section, if any;

310           ~~[(vi)]~~ (vii) a description of each executive action on behalf of which the lobbyist,  
311 principal, or government officer made an expenditure to a public official for which a report is  
312 required by this section, if any; and

313           ~~[(vii)]~~ (viii) the general purposes, interests, and nature of the organization or  
314 organizations that the lobbyist, principal, or government officer filing the report represents.

315           (4) A related person may not, while assisting a lobbyist, principal, or government  
316 officer in lobbying, make an expenditure that benefits a public official or member of the public  
317 official's immediate family under circumstances which would otherwise fall within the  
318 disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal,  
319 or government officer.

320           ~~[(5) (a) Each lobbyist, principal, and government officer who makes expenditures~~  
321 ~~totaling \$50 or more to benefit public officials or members of their immediate families since~~  
322 ~~the date of the last financial report filed shall file a financial report with the lieutenant governor~~  
323 ~~on:]~~

324           ~~[(i) the date ten days after the last day of each annual general session;]~~

325           ~~[(ii) the date seven days before a regular general election; and]~~

326           ~~[(iii) the date seven days after the end of a special session or veto override session.]~~

327           ~~[(b) (i) If any date specified in this Subsection (5) falls on a Saturday, Sunday, or legal~~  
328 ~~holiday, the report is due on the next business day or on the next succeeding business day, if~~  
329 ~~the due date falls on a Saturday, Sunday, or legal holiday.]~~

330           ~~[(ii) The report shall be considered timely filed if it is postmarked on its due date.]~~

331           ~~[(c) Each report shall contain a listing of all expenditures made since the last~~  
332 ~~expenditure reported on the last report filed in the form specified in Subsection (2)(b) and,~~  
333 ~~when applicable, Subsection (3).]~~

334           ~~[(d) In preparing each financial report, all expenditures shall be reported as of five days~~  
335 ~~before the required filing date of the report.]~~

336           ~~[(6)]~~ (5) Each quarterly financial report filed by a lobbyist shall contain a certification  
337 that the information provided in the report is true, accurate, and complete to the lobbyist's best

338 knowledge and belief.

339 ~~[(7)]~~ (6) The lieutenant governor shall:

340 (a) develop preprinted suggested forms for all statements required by this section; and

341 (b) make copies of the forms available to each person who requests them.

342 ~~[(8)]~~ (7) Each lobbyist and principal shall continue to file the quarterly financial reports  
343 required by this section ~~[until the lobbyist or principal has filed the report due on the first~~  
344 ~~January 10 that is more than]~~ for a period of 12 months after the date that the lobbyist  
345 surrenders, fails to renew, or otherwise ceases to be licensed.

346 Section 4. Section **36-11-306** is enacted to read:

347 **36-11-306. Conflicts of interest.**

348 (1) As used in this section, "conflict of interest" means a circumstance where:

349 (a) the representation of one principal or client will be directly adverse to another  
350 principal or client; or

351 (b) there is a significant risk that the representation of one or more principals or clients  
352 will be materially limited by the lobbyist's responsibilities to:

353 (i) another principal or client;

354 (ii) a former principal or client;

355 (iii) a third person; or

356 (iv) a personal interest of the lobbyist.

357 (2) Except as provided in Subsection (3), a lobbyist may not represent a principal or  
358 client if the representation involves a conflict of interest.

359 (3) Notwithstanding the existence of a conflict of interest, a lobbyist may represent a  
360 principal or client if:

361 (a) the lobbyist reasonably believes that the lobbyist will be able to provide competent  
362 and diligent representation to each principal or client;

363 (b) the representation is not otherwise prohibited by law;

364 (c) the representation does not require the lobbyist to assert a position on behalf of one  
365 principal or client that is opposed to the position of another principal or client represented by  
366 the lobbyist involving the same legislative issue; and

367 (d) each affected principal or client gives informed consent to the conflict of interest in  
368 writing.

---

---

**Legislative Review Note**

**as of 1-10-06 10:23 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**